



Security Council

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Note verbale dated 26 February 2018 from the Permanent Mission of Belgium to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Belgium to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and submits herewith the report of Belgium on the implementation of resolution 2371 (2017).

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**Annex to the note verbale dated 26 February 2018 from the
Permanent Mission of Belgium to the United Nations addressed to
the Chair of the Committee**

[Original: French]

**Report of Belgium on implementation of Security Council
resolution 2371 (2017)**

I. Measures adopted by the European Union

Belgium and the other States members of the European Union are jointly implementing the restrictive measures against the Democratic People's Republic of Korea set forth in Security Council resolution 2371 (2017) by adopting the following measures:

(a) Council Implementing Decision (CFSP) 2017/1459 of 10 August 2017 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which provides for the designation of additional persons and entities (travel ban and asset freeze).

(b) Commission Implementing Regulation (EU) 2017/1457 of 10 August 2017 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the decision mentioned above.

(c) Council Decision (CFSP) 2017/1562 of 14 September 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea.

The Council Decision lists the European Union's commitments to implement the measures set out in Security Council resolution 2371 (2017):

- Prohibition on entry into the ports of member States of vessels designated by the sanctions committee pursuant to paragraph 6 of resolution 2371 (2017), unless such entry is required because of an emergency or in the case of return to the port of origination. The sanctions committee can grant an exemption under certain conditions.
- Clarification of the prohibition on owning, leasing or operating any vessel flagged by the Democratic People's Republic of Korea and chartering of such vessels.
- Prohibition on procuring coal, iron and iron ore from the Democratic People's Republic of Korea. The prohibition does not apply if the conditions mentioned in paragraph 8 of Security Council resolution 2371 (2017) have been met.
- Prohibition on procuring seafood from the Democratic People's Republic of Korea.
- Prohibition on procuring lead and lead ore from the Democratic People's Republic of Korea.
- Prohibition on exceeding, on any date after 5 August 2017, the total number of work authorizations for nationals of the Democratic People's Republic of Korea provided in the jurisdictions of member States and valid on that date. The sanctions committee can grant an exemption on a case-by-case basis under certain conditions.

- Prohibition on opening of new joint ventures or cooperative entities with entities or individuals of the Democratic People's Republic of Korea, or expanding existing joint ventures. The sanctions committee can grant an exemption on a case-by-case basis.
- Clarification of the prohibition on the transferring and clearing of funds to or from the Democratic People's Republic of Korea.
- Clarification that companies performing financial services commensurate with those provided by banks are considered financial institutions.
- Obligation to seize and dispose of items the export of which is prohibited by Security Council resolution 2371 (2017).

(d) Council Regulation (EU) 2017/1548 of 14 September 2017 amending Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures contained in Council Decision (CFSP) 2017/1562.

Decisions of the Council of the European Union enter into force on the day of their publication in the *Official Journal of the European Union*.

Regulations of the Council of the European Union and European Commission implementing regulations are binding in their entirety and are directly applicable in the legal systems of all States members of the European Union upon publication in the *Official Journal of the European Union*.

Council Regulation (EU) 2017/1509 requires member States to determine the penalties applicable to infringements of their provisions.

II. National implementation measures

At the national level, the following texts provide the legal basis for the implementation of these sanctions and penalties in Belgium:

- The decree-law of 6 October 1944 regulating all transfers of goods and assets between Belgium and foreign countries (amended by the law of 28 February 2002);
- The law of 11 May 1995 on the implementation of United Nations Security Council decisions;
- The law of 13 May 2003 on the implementation of restrictive measures adopted by the Council of the European Union against States and certain individuals and entities.

Moreover, Belgium has legislation, at both the federal level and the level of the competent regional authorities, requiring that an export licence be obtained for any sale, supply, transfer or export of arms or materiel to third countries. This legislation provides the basis for the implementation of the arms embargo against the Democratic People's Republic of Korea and of the prohibition on the provision of related services.

The law of 5 August 1991 on the import, export and transit of, and combating the traffic in, arms, munitions and equipment specifically intended for military use or for maintaining order, as well as related technology, as amended by the law of 26 March 2003, forbids any person residing in Belgium from undertaking any arms transaction without a licence issued for that purpose by the Minister of Justice. This law also provides that holders of such licences may not undertake any transaction that would violate an embargo decreed by an international organization of which Belgium is a member (articles 10 and 11).

The same law provides that any request for an export or transit licence must be denied if it is incompatible with the international obligations of Belgium and the commitments it has undertaken to implement the arms embargoes decreed by the United Nations, the Organization for Security and Cooperation in Europe and the European Union (article 4, paragraph 1(2)).

The competent regional authorities also have their own strict legal framework in this regard.

On the basis of Security Council resolution 1718 (2006) and subsequent resolutions, Council Decision (CFSP) 2016/849 and Council Regulation (EU) No. 2017/1509, any request for a licence to export arms to the Democratic People's Republic of Korea would be denied.

With regard to the embargo on items, materials, equipment, goods and technology which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea, Belgium adheres to the requirements of Council Regulation (EU) No. 2017/1509, which forbids:

- The sale, supply, transfer or export of goods, materials, equipment or technologies which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;
- The purchase, import or transport of such items from the Democratic People's Republic of Korea;
- The provision of technical assistance, financing and financial assistance related to arms and to goods which could contribute to weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;
- The procurement of such services from the Democratic People's Republic of Korea. These prohibitions apply directly to all activities carried out in the European Union and to the nationals of States members of the Union anywhere in the world.

The intangible transfer of technology poses a particular challenge in efforts to combat the proliferation of weapons of mass destruction. To reduce the risk of academic work, specialized training or scientific cooperation being used for proliferation purposes, the Belgian authorities have carried out awareness-raising activities at universities and scientific institutes. These activities provide an opportunity to make stakeholders aware of the various risks of proliferation and to explain export control procedures, particularly those applicable to dual-use products or technology. The Federal Public Service for Justice has also produced a pamphlet on the risks associated with the intangible transfer of technology. In addition, the competent services screen visa applications for connections to specialized teaching or training.

With regard to goods traffic, the Customs and Excise Administration has established the necessary procedures for proper implementation of the current provisions of the sanctions regime applicable to the Democratic People's Republic of Korea. The import, export and transit of goods and related technology are regulated by the law of 11 September 1962, as amended, which provides for prior authorization in the form of a licensing regime. Violations and attempted violations of this law are penalized in accordance with the general law on customs and excise of 18 July 1977. Mechanisms have been established to identify vessels with links to the Democratic People's Republic of Korea so that they may be inspected. Compliance with measures prohibiting or restricting imports and exports is also monitored through the Integrated

Tariff of the European Union. This is a common system for coding and classifying goods, which details the steps to be taken by parties importing goods to or exporting them from the European Union.

The freeze on financial assets and economic resources and the prohibition on making funds available are implemented by article 34 of Regulation (EU) No. 2017/1509 of the Council of the European Union, which sets forth the freeze and the prohibition on providing economic resources to listed individuals and entities as provided for under paragraph 3 of Security Council resolution 2371 (2017). In addition to the freeze instituted under Regulation (EU) No. 2017/1509 of the Council of the European Union, article 1/1 of the law of 11 May 1995 on the implementation of United Nations Security Council decisions, which was added on 8 January 2016, allows the Minister of Finance to take interim freeze measures through a ministerial order in the case of additions to the lists of individuals and entities targeted by the United Nations that have not yet been covered under European regulations, in order to prevent any delay in the implementation of such measures. This is the background to the ministerial order of 8 August 2017 on freezing the assets and other financial means specified under article 1/1 of the law of 11 May 1995 on the implementation of United Nations Security Council decisions in the execution of the resolutions on restrictive measures against the Democratic People's Republic of Korea for freezing the assets and other financial means of persons, entities or groups that have been added to the lists of persons, entities or groups subject to the restrictive measures against the Democratic People's Republic of Korea under resolution 2371 (2017). To date, no asset freeze proceedings have had to be carried out in Belgium to implement Security Council resolutions concerning the Democratic People's Republic of Korea.

With regard to the restrictions on entry to Belgian territory and on visa issuance, Decision (CFSP) 2017/1459 of the Council of the European Union updated the list of individuals (in respect of whom the States members of the European Union must take the necessary steps to prevent entry to or transit through their territory) found in annex I of Decision (CFSP) 2016/849 to include the names of the individuals listed in annex I of Security Council resolution 2371 (2017). Individuals subject to the travel ban, whether applied at the level of the United Nations or that of the European Union, have been added to the database of the Belgian computer program used to process visa applications. If an applicant matches an individual or an alias in the database, the application in question is automatically forwarded to the competent national authority for denial.

With regard to work authorizations and professional cards, the competent regional authorities have updated their internal procedures pursuant to resolution 2371 (2017) and Regulation (EU) 2017/1548 of the Council of the European Union of 14 September 2017. No national of the Democratic People's Republic of Korea has a work permit or a professional card in Belgium.